EMPLOYMENT DEVELOPMENT DEPARTMENT

Amendment of Title 22, California Code of Regulations,
Sections 926-3, 926-4, and 926-5

TAXABLE VALUE OF MEALS AND LODGING

Initial Statement of Reasons

INTRODUCTION:

This regulatory action amends California Code of Regulations (CCR), title 22, sections 926-3, 926-4, and 926-5, by increasing the taxable value of meals and lodging furnished to employees by employers for calendar year 2005. These increases are due to inflation.

NECESSITY:

CCR, title 22, sections 926-3, 926-4, and 926-5, provide the taxable value of meals and lodging furnished to employees by employers. In order to establish the equivalent amount of cash wages paid by employers who pay a portion of their employee's wages in the form of meals or lodging, it is necessary to compute the reasonable cash value of such meals and lodging for unemployment insurance purposes. The Employment Development Department (Department) makes this computation each calendar year to reflect the upward or downward trend in the cost of living during the previous calendar year. This yearly computation ensures an accurate and up-to-date calculation of the taxable values of meals and lodging for purposes of "wages" within the meaning of Unemployment Insurance Code (UIC) section 926.

According to the United States Department of Labor, Bureau of Labor Statistics [http://data.bls.gov/cgi-bin/srgate], the average retail food price index for fiscal year 2003-2004 was 193.6, up 450 percent from the average of 35.2 for the base year 1968-69. The average residential rent index for the fiscal year ended June 30, 2004, was 230.2. This is 417.3 percent above the average residential rent index of 44.5 for the base year ended June 30, 1973. The Department uses 1968-69 as the base year for food and 1973 as the base year for rent because these are the years used by the Bureau of Labor Statistics.

These regulations are being amended to reflect, in substantially the same ratio, the increases in the retail food price index and residential rent index which occurred during the fiscal year ended June 30, 2004.

Notwithstanding sections 926-3(a)(2), and 926-4(a)(2), and 926-5(a)(2)(A) of CCR, title 22, which state in part: "For the calendar year 2005 and thereafter, except as modified herein . . .", the Department recognizes that the amendments made to these sections will not become effective until the regulations are approved by the Office of Administrative Law.

PLAIN ENGLISH CONFORMING STATEMENT:

The Department has drafted the proposed amendments in plain English pursuant to section 11346.2(a)(1) of the Government Code.

FISCAL IMPACT:

Anticipated costs or savings in federal funding to the State: None

Anticipated costs or savings to any State Agency: None

Anticipated costs or savings to any local agency or school district: None

Significant statewide adverse economic impact: Approximately 314,051 businesses and small businesses will be affected statewide by these regulations. The types of businesses affected include fisheries, restaurants and eating establishments, apartment complexes, private households, residential care facilities, and home health care. The total statewide cost to businesses and small businesses is anticipated to be $14.5 million, however, the cost to individual businesses is minimal. The regulation does not impose any new reporting requirements on businesses.

The Department has made an initial determination that the proposed amendments will not have a significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states. The Department has determined that the proposed amendments will not affect the creation or elimination of jobs within the State of California; the creation of new businesses or the elimination of existing businesses within the State of California; or the expansion of businesses currently doing business within the State of California.

The costs impact on representative persons or businesses: These proposed amendments will affect only those employees who are furnished meals or lodging by their employers. The Department anticipates that the fiscal impact to employees will be negligible.

Anticipated impact on housing costs: These proposed amendments will have no effect on housing costs.

Anticipated nondiscretionary costs or savings imposed upon local agencies: None

SMALL BUSINESS IMPACT:

These proposed amendments will not have a significant impact on small businesses since the changes reflect small inflationary increases in the taxable value of meals and lodging for purposes of wages within the meaning of section 926 of the UIC. Essentially, the proposed amendments will only accelerate the point at which an employee reaches the maximum taxable wage limit for the calendar year.

LOCAL MANDATE DETERMINATION:

The Department has determined that these proposed amendments will not impose any new mandates on school districts or other local governmental agencies or any mandates which must be reimbursed by the State pursuant to Part 7 (commencing with section 17500), Division 4 of the Government Code.

CONSIDERATION OF ALTERNATIVES:

In accordance with section 11346.2(b)(3)(B) of the Government Code, there were no reasonable alternatives to be considered by the Department.

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